

Regulations for NOBRA Board of Examiners

(13) Pages

RULE
Office of the Governor
Board of Examiners for New Orleans and
Baton Rouge Steamship Pilots

General Provisions; Qualifications and Examination;
Standards of Conduct; Investigations and Enforcement
(LAC 46:LXX.Chapters 61, 64, 66, and 67)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River (hereinafter "Board") it has adopted Rules and Regulations. Chapter 61 regarding the general operation of the Board of Examiners is intended to replace the former Chapter 61, which was entitled New Orleans and Baton Rouge Port Pilots. Chapter 64 pertains to the general qualifications necessary to become an apprentice candidate and the examination of pilots. Chapter 66 outlines standards of conduct, standards of proper and safe pilotage, standards of competency and regency of service, along with continuing education requirements. Chapter 67 establishes procedures for the investigation and enforcement of board rules, together with penalties associated therewith.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXX. Pilots

Subpart 7. Board of Examiners for the New Orleans and
Baton Rouge Steamship Pilots
Chapter 61. General Provisions

§6101. Authority

A. As mandated by R.S. 34:1041, these Rules and Regulations are issued by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., for the purpose of adopting Rules, regulations and requirements regarding the general operation of the Board of Examiners. AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004).

§6103. Definitions

Association or Pilot Association • the New Orleans-Baton Rouge Steamship Pilots Association.

Board of Examiners or Board • the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as designated in R.S. 34:1042.

Examiner(s) • those individuals appointed, as per law, to be members of the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots.

Pilot(s) • New Orleans and Baton Rouge Steamship Pilot(s), as designated in R.S. 34:1043.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004).

§6104. Appointment

A. When there is a need for new examiners, the Board of Examiners shall make recommendations to the governor for replacement(s) to fill any vacancies.

B. When this need arises, the Board of Examiners shall take into consideration the following in making their recommendations:

1. ability to serve;
2. qualification;

3. length of service as a commissioned pilot.

C. Examiners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, Examiners shall not suffer any loss of benefits or compensation while they are performing their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004).

§6105. Expenses

A. All ordinary and necessary operating and administrative costs and expenses of the Board of Examiners, including, but not limited to, the cost of administrative offices, furniture and fixtures, communications, transportation, office supplies and equipment, publications, travel, examiners' reimbursement, attorney fees, expert fees, costs, expenses of litigation or any other expenses whatsoever incurred by the commission while performing its duties shall be provided by the Pilots and paid through their pilot association.

B. The examiners shall maintain an office and conduct business as is necessary to fulfill its legislative mandate and/or as may be required by the rules herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004).

§6106. Rules, Records, Meetings, Application

A. All board rules must be adopted by a majority of the Examiners. The Board of Examiners shall maintain records in accordance with R.S. 44:1 et seq., and all other state laws. The Board of Examiners shall file an annual report of investigations, findings, actions and accident data in accordance with state laws. The Board of Examiners shall conduct its meeting in accordance with R.S. 42:4.1 et seq., and any other state laws.

B. The examiners shall hold quarterly meetings on the call of the president. The president has the prerogative of calling additional meetings as needed to conduct business upon giving proper notice, as required by law.

C. These Rules shall apply to all New Orleans and Baton Rouge Steamship Pilots engaged in their calling within the operating territory defined in R.S. 34:1043.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004).

§6107. Association of Pilots

A. The Pilots may form themselves into an association or associations, as they see fit, not in conflict with the Rules and Regulations of the Board of Examiners.

B. The formation of any association incorporated or nonincorporated which is for the purpose of providing pilotage service under the law, including but not limited to R.S. 34:1047, must be submitted to the commission for approval. Such applications must meet all legal requirements, provide for a stable pilotage system, serve the best interest of the majority of pilots and protect the life and property of the region.

C. The Board of Examiners hereby recognizes the fact that the New Orleans and Baton Rouge Steamship Pilots have formed themselves into a legal registered corporation known as the New Orleans and Baton Rouge Steamship Pilots Association; further, let it be recognized by the Board of Examiners that the said pilot association has operated, and is now operating, within all state laws and is not known to be in conflict with the Rules and Regulations of the Board of Examiners.

D. No pilot association, incorporated or nonincorporated, has any authority to impose or legislate any rules, bylaws or charter provisions affecting the Board of Examiners; further, any attempt to exercise any authority over or affecting the Board of Examiners is a violation of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S.34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004).

§6108. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid or unenforceable, for any reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004).

Chapter 64. Qualifications and Examination of Pilots

§6401. Statement of Purpose

A. The purposes of these Rules and Regulations is to establish standards for recommendation by the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots to the governor of the State of Louisiana for appointment as a New Orleans-Baton Rouge Steamship Pilot, pursuant to R.S. 34:1043.

B. The Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots is charged by the Louisiana Legislature with the responsibility of promoting and maintaining safety of maritime commerce along the Mississippi River. To this end, the Board of Examiners has set the requisite qualifications to become a NOBRA Pilot at a high level, in order to attract applicants who have earned, among other qualifications, a maritime degree. The maritime related degree is of special importance to the pilot in that it imparts necessary knowledge in this highly specialized field and is a required supplement for the non-maritime related Bachelor's degree. It is the opinion of the Board that this combination of education, licensing and experience will foster the type of conscientious pilots who will conduct themselves in a professional manner and continue the excellent tradition of safety set by NOBRA Pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004).

§6403. Authority

A. As mandated by R.S. 34:1041, these Rules and Regulations are issued by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., for the purpose of adopting Rules, regulations and requirements regarding the general qualifications and examination of pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004).

§6407. Definitions

A. As used in this Chapter, the following terms, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

Accredited Institution of Higher Learning • an institution that is accredited by the Commission of Colleges of the Southern Association of Colleges and Schools, the Louisiana Community and Technical College System, or is part of the Louisiana State

University System or one whose credits are honored by any of these systems.

Administrative Procedure Act (APA) • the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

Applicant/Candidate • any person who has submitted an application for a pilot commission as a New Orleans-Baton Rouge Steamship Pilot.

Application • the written application supplied by the Board of Examiners to an applicant who desires to become a state commissioned New Orleans - Baton Rouge Steamship Pilot, along with all supporting documentation.

Apprentice • any person duly elected by the members of the NOBRA Association, but not yet commissioned, who is serving in an orientation program, as directed by the Board of Examiners.

Apprenticeship Program • a period of orientation performed by an apprentice and/or restricted pilot, in order to become an unrestricted pilot, as set forth by the Board of Examiners.

Association or NOBRA • New Orleans-Baton Rouge Steamship Pilot Association.

Board of Examiners or Board • the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as established in R.S. 34:1041 et seq.

Experience on a License • experience on a vessel of at least 50 gross tons with any USCG Merchant Marine Deck Officer license of 1600 Ton Master of Inland or Rivers, First Class pilot license or equivalent, where performance of duties encumbers the license. One year experience is calculated as being at least 150 days of service on vessels underway in a 365-day period.

Gender • the terms "his" and "her" are to be used interchangeably, as are any references to that which may be masculine or feminine.

Maritime Studies • an accredited course of study resulting in a degree offered by certain Colleges in the Louisiana State University and Community and Technical College Systems, which includes nautical science, marine operations or other similar courses of study involving marine navigation. A comparable degree from an accredited institution of higher learning is also acceptable.

NOBRA Pilot or Pilot • a state commissioned New Orleans-Baton Rouge Steamship Pilot, as designated in R.S. 34:1041, et seq.

Restricted Pilot • State commissioned pilot who is subject to restricted service, under the supervision of the Board of Examiners.

Restricted Service • a period of time set by the Board of Examiners during which a restricted pilot performs limited job assignments and fulfills other requirements, as enumerated by the Board, until such time as the restricted pilot has exhibited sufficient knowledge and expertise.

Unrestricted Pilot • a state commissioned pilot who has successfully completed the apprenticeship program and restricted period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004).

§6409. Application

A. Any person wishing to submit an application to become an apprentice candidate may obtain an application from the office of the Board of Examiners, said person may request an application by mail or may download an application from the Board of Examiners' website. The Board of Examiners current address is: Board of Examiners for New Orleans and Baton Rouge Steamship Pilots

3900 River Road, Suite 5

Jefferson, Louisiana 70121

(504) 832-8943

www.nobraexaminers.louisiana.gov

B. All applications must be in writing, must be signed by the applicant and presented to a member of the Board of Examiners. All persons wishing to submit an application may make an appointment with an examiner by calling the Board's office. All applications must be accompanied by satisfactory evidence of compliance with the Board's requirements. Upon submission of an application, all applicants will receive a stamped copy of their application indicating the date of submission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004).

§6411. General Requirements

A. Applicant must be of good moral character. In addition, all applicants will be required to submit to a criminal background check conducted at the Louisiana State Police headquarters.

B. Applicant must have been a registered voter of the State of Louisiana for at least one year prior to submitting an application to become an apprentice candidate.

C. All applicants must submit proof of a current satisfactory United States Coast Guard approved physical.

D. Applicant must submit evidence of satisfactory completion from United States Coast Guard approved training programs for the following courses of instruction within five years prior to a NOBRA apprentice election:

1. Bridge Resource Management;
2. Basic Ship Handling (5 day);
3. Radar Observer;
4. Advanced firefighting;

E. All applicants must submit certification that they have passed a DOT approved drug screen test within six months prior to a NOBRA apprentice election. An applicant may satisfy this requirement by submission of proof that the applicant is currently employed by an employer who administers a DOT approved random drug testing program and that applicant is subject to random testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004).

§6413. Licenses/Education/Experience

A. In addition to the above, all applicants must submit proof of satisfaction of the following licensing, education and experience criteria.

1. All applicants must hold at least a current First Class Pilots License, Any Gross Tons, Upon the Lower Mississippi River from Chalmette, Louisiana to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana, including physical, and, at least, either a Master of Inland Steam or Motor Vessel of not more than 1600 Gross Tons or Master of Rivers Steam or Motor Vessel of not more than 1600 Gross Tons or a Third Mate Oceans any Gross Tons license.
2. Additionally, all Applicants must hold a degree from an accredited institution of higher learning, as well as maritime experience and current, valid licenses as follows:
 - a. A graduate of a maritime academy and at least a Third Mate Oceans any Gross Tons license with three years experience on a license or a Second Mate Oceans any Gross Tons license with one year experience on a license or a Chief Mate or Master Oceans any Gross Tons license; or
 - b. A Bachelors degree in maritime studies or a related maritime field and at least a Master of Inland Steam or Motor Vessel of not more than 1600 Gross Tons or Master of Rivers Steam or Motor Vessel of not more than 1600 Gross Tons with 3 years experience on a license or a Third Mate Oceans any Gross Tons license with

3 years experience on a license or a Second Mate Oceans any Gross Tons license with 1 year experience on a license or a Chief Mate or Master Oceans any Gross Tons license; or

c. A Bachelors degree in a non-maritime field and 15 credit hours of additional accredited maritime courses and at least a Master of Inland Steam or Motor Vessel of not more than 1600 Gross Tons or Master of Rivers Steam or Motor Vessel of not more than 1600 Gross Tons with 2 years experience on a license; or

d. An associate degree in maritime studies or a related maritime field and at least a Master of Inland Steam or Motor Vessel of not more than 1600 Gross Tons or Master of Rivers Steam or Motor Vessel of not more than 1600 Gross Tons with 6 years experience on a license.

3. Effective January 1, 2014, all applicants must hold a minimum of a Bachelor degree in maritime studies or a Bachelor degree in a non-maritime field as well as an Associate degree in maritime studies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004).

§6415. Application Screening

A. At least 120 days prior to an apprentice election, NOBRA must inform the Board of Examiners, in writing, that an election will be held and the date of the election.

B. At least 100 days prior to the NOBRA apprentice election, the Board of Examiners will advertise the date of the NOBRA apprentice election, as well as the deadline for submission of application materials, in at least 2 periodicals, one of which shall have a circulation of the greater New Orleans area and one of which shall have a circulation of the greater Baton Rouge area. The advertisements shall run for at least 10 days during a 3-week period. In addition, all relevant dates will be posted on the Board of Examiners website.

C. At least 75 days prior to the NOBRA apprentice election, the Board of Examiners will give notice, via U.S. Mail, to all applicants of the date of the election and the deadline for submitting documentation in support of their application. Further, this notice will also contain a list of any deficiencies in the applicant's application.

D. The deadline for submitting an application, and supporting documentation, for a particular NOBRA apprentice election shall be 45 days prior to the NOBRA apprentice election.

E. At least 30 days prior to the NOBRA apprentice election, the Board of Examiners will forward to NOBRA the applications, and supporting documentation, of all applicants who meet the criteria for election, as enumerated in the Board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004).

§6416. Expiration

A. Following a NOBRA Apprentice election, all applications on file with the Board of Examiners will be deemed expired and will be discarded. Any person wishing to apply for a subsequent NOBRA apprentice election will be required to submit a new application, along with supporting documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004).

§6417. Apprenticeship

A. All apprentices must successfully complete an apprenticeship program designed and administered by the Board of Examiners. The apprenticeship shall be over the NOBRA route and last for a

period of not less than three years. This apprentice program shall include the following:

1. not less than one year of orientation, prior to commissioning, during which the apprentice accompanies state commissioned pilots on their duties;
 2. not less than two years of restrictive service, following commissioning, during which the restricted pilot shall be observed, from time to time by unrestricted pilots;
 3. advanced qualification testing;
 4. any necessary license preparation and upgrades;
 5. any other industry related professional development that the Board of Examiners may deem relevant and necessary.
- B. The orientation period may be extended up to one additional year as determined by the Board of Examiners. If, after the one year extension period, the apprentice fails to meet the criteria and standards set by the Board, said apprentice shall be released from the apprenticeship program and will not be recommended to the governor for commissioning as a pilot. Grounds for release from the apprenticeship program include, but are not limited to:
1. recklessness and/or display of lack of judgment;
 2. disregard of state rules, laws, and regulations;
 3. disregard of United States Coast Guard Rules and Regulations;
 4. lack of fitness for the position and job of pilot;
 5. lack of moral integrity, veracity, ability or capability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004).

§6419. Examination by the Board of Examiners; Recommendation to Governor

A. In addition to the above requirement, in order to be recommended to the governor for commissioning as a pilot, all apprentices must complete an oral and/or written examination to be conducted by the Board of Examiners. This examination shall test the apprentice's knowledge of pilotage and demonstrate the apprentice's proficiency and capability to serve as a commissioned pilot.

B. The Board of Examiners shall certify to the governor for his/her consideration for commissioning as a NOBRA pilot those apprentices who satisfactorily complete all requirements established by state law and these rules and who complete and pass the examination(s) given by the Board of Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004).

§6420. Restrictive Service Period

A. The restrictive service period shall be at least two years in duration, during which the restricted pilot will only be assigned to vessels of limited size and draft, to be set and determined by the Board of Examiners. After each eight month period, the restricted pilot may graduate to piloting larger size and draft vessels, all to be determined by the Board of Examiners.

B. The restricted service period may be extended up to one additional year as determined by the Board of Examiners. If, after the one year extension period, the restricted pilot fails to meet the criteria and standards set by the Board, said restricted pilot shall be released from the apprenticeship program and a recommendation will be made to the governor to have the restricted pilot's state commission revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004).

Chapter 66. Standards of Conduct

§6601. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by NOBRA Pilots, this board has always had a strong commitment to the general public and maritime industry, including but not limited to apprentices, candidates and the pilot members of NOBRA, to provide a safe work place and to establish programs promoting the highest standards of pilot health, safety and welfare. In accordance with state law, and in order to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services, the Board proposes to adopt the following rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004).

§6603. Application

A. The Board hereby adopts the following Rules and Regulations relating to all applicants, apprentices, and state commissioned NOBRA Pilots, pursuant to the provisions of R.S. 34:1041 et seq. These Rules and Regulations are not intended to replace those Rules and Regulations in existence. Current Rules and Regulations are not superceded nor replaced. Where applicable, what follows is intended only to enhance and/or clarify existing Rules and Regulations. Where applicable, any conflict is to be construed and resolved in the stricter sense. To that end, all current Rules and Regulations are adopted and incorporated herein in extenso.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004).

§6607. Authority

A. As mandated by R.S. 34:1041, these Rules and Regulations are promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements for pilot oversight for NOBRA Pilots, apprentices and candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004).

§6609. Definitions

A. As used in this Chapter, the following terms, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act (APA) • the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

Applicant/Candidate • any person who has submitted an application for a pilot commission as a New Orleans Baton Rouge Steamship Pilot.

Application • the written application supplied by the Board of Examiners to an applicant who desires to become a state commissioned New Orleans-Baton Rouge Steamship Pilot, along with all supporting documentation.

Apprentice • any person duly elected by the members of the NOBRA Association, but not yet commissioned, who is serving in an orientation program, as directed by the Board of Examiners.

Association or *NOBRA* • New Orleans-Baton Rouge Steamship Pilot Association.

Board of Examiners or Board • the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as established in R.S. 34:1041 et seq.

Gender • the terms "his" and "her" are to be used interchangeably, as are any references to that which may be masculine or feminine.

NOBRA Pilot or Pilot • a New Orleans-Baton Rouge Steamship Pilot, as designated in R.S. 34:1041 et seq.

Services of a Pilot • any advice or assistance with respect to pilotage by the commissioned pilot, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

Turn • the overall time-period necessary to complete the designated scope of work to be performed, including but not limited to a vessel, drug testing, continuing education or at the VTC.

VTC • Vessel Traffic Center, or any other similarly related United States Coast Guard or governmental facility, institution, or program whatsoever.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004).

§6611. Severability

A. If any provision of these Rules and Regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these Rules and Regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004).

§6615. Violations of the Policy

A. This board may take such action as is necessary for any violation of its policies, Rules and Regulations by any pilot, apprentice, or candidate or the Board may refer such person to the Office of the Governor, if required by law, for reprimand, fine, suspension and/or pilot commission revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6617. Standards of Conduct for Proper and Safe Pilotage

A. This board may in its discretion recommend to the Office of the Governor of Louisiana reprimand revocation and/or suspension of a NOBRA Pilot, apprentice, and/or candidate for the following non-exclusive list of particulars:

1. failure to maintain, in good, valid and current standing a U.S. Coast Guard First Class Pilot License of any gross tons from Chalmette, Louisiana to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana
2. conviction of any felony from any jurisdiction whatsoever;
3. neglect of duty;
4. neglect of duty while performing services at VTC (Vessel Traffic Center) or other similar governmental facility;
5. failure to remain a qualified and registered voter of the State of Louisiana;
6. not successfully passing any physical examination as mandated by the Board of Examiners;
7. any violation of the Board's drug and alcohol Rules and Regulations;
8. failure to successfully complete continuing professional education requirements;
9. any violation of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6623. Absolute Insurer

A. A pilot is the absolute insurer of his or her own competency, state of mind, physical abilities, and overall well-being.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6625. Adoption of Navigational Rules

A. The Board shall use a standard of navigation which adheres to common, local practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6627. Duty of a Pilot

A. A NOBRA Pilot shall remain on duty until properly relieved and/or has completed one's pilot assignment and/or is released by the ship master or his representative/agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6629. Pilot's Duty to Remain on Duty at the Vessel Traffic Center (VTC)

A. A NOBRA Pilot shall remain on site and on duty at VTC (or similar facility) until properly relieved and shall adhere to normal watchkeeping practices of a prudent seaman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6647. Recency Requirement

A. If an otherwise state-commissioned NOBRA Pilot does not pilot or has not piloted a vessel or ship, as assigned by the NOBRA Pilot Association during the normal course of dispatching of pilotage services, on a turn for a distance of at least 20 miles, during any period of 6 consecutive months, then before that pilot is eligible and authorized to pilot any such vessel along the NOBRA route, said pilot shall be required to successfully complete, to the exclusive and unilateral satisfaction of the Board, each of the following non-exclusive list of particulars:

1. A minimum of 5 turns along the NOBRA route, with a commissioned NOBRA Pilot, from the general area of the Baton Rouge harbor to New Orleans General Anchorage:

- a. these 5 turns, combined, shall cover the entire area between Baton Rouge Harbor and New Orleans General Anchorage;
- b. two (2) trips of these five (5) trips shall be during the hours of darkness.

B. Where there has been no pilotage in excess of seven months, a NOBRA Pilot shall be subject to and shall be required to successfully complete, to the exclusive and unilateral satisfaction of the Board, a specially designed and planned program to reasonably re-orient such pilot to Mississippi River Pilotage, under the jurisdiction and supervision of this board.

C. These Sections shall not apply to any assignment or turn at the VTC (Vessel Traffic Center) and shall be excluded from these Rules. Work performed at VTC shall not be considered as a turn or assignment for these purposes only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6649. Re-Orientation Period

A. Upon commencement of the above re-orientation period, any pilot subject to these minimum requirements shall successfully complete all 5 turns within 30 consecutive days. For good reason shown, and upon timely application, in writing by the pilot, additional time to complete these trips or turns may be granted by the Board. The Board shall have the exclusive and unilateral discretion to grant or deny any extension of time.

B. The Board of Examiners reserves the right to require a pilot to successfully pass a physical approved by the Board of Examiners prior to returning to duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004).

§6651. Continuing Professional Education

A.1. As of January 2, 2005, every pilot seeking to maintain a pilot's commission must successfully complete the following required courses every five years:

- a. an approved Bridge Resource Management course for pilots;
- b. an approved Emergency Ship Handling course for pilots;
- c. a marine technical course, which includes Vessel Traffic Service training.

2. Every pilot must annually and successfully complete 24 hours of professional development courses approved by the Board of Examiners. The Board may, from time to time, adjust these requirements in order to maintain the highest level of professional competency and pilot safety.

B. All professional education classes and programs shall be approved by the Board of Examiners. The Board of examiners will maintain a non-exclusive list of approved professional education classes and programs, which may be periodically updated.

C. Any pilot who fails to successfully complete the required professional education classes or programs will be removed from duty until the pilot complies with the requirements of this section.

D. It is the responsibility of the pilot to attend the necessary professional education classes and to present the Board with proof of satisfactory completion.

E. The Board may, for good cause shown, grant a waiver or extend the time for a pilot to complete the continuing professional education requirement, upon timely application, in writing, by the pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004).

Chapter 67. Investigations and Enforcement

§6701. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by NOBRA Pilots, this board has always had a strong commitment to provide a safe work place and to establish programs promoting the highest standards of pilot health, safety and welfare. In accordance with state law and in order to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services, the Board will maintain and enforce a strict policy of conducting full and complete investigations, and possible subsequent referrals to the Office of the Governor, of any and all violations of board Rules and state and/or federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004).

§6703. Authority

A. As mandated by R.S. 34:1041, these Rules and Regulations are issued by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots in accordance with the Administrative Procedure Act under R.S. 49:950 et seq., for the purpose of adopting Rules, Regulations and requirements for pilot oversight for NOBRA Pilots, apprentices and candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004).

§6705. Severability

A. If any provision of these Rules and Regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these Rules and Regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004).

§6707. Duty to Report

A. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, the Board of Examiners shall conduct an appropriate investigation, as per these Rules. Following such an incident, the pilot shall report the matter as follows:

1. report the casualty by whatever means available to the Board of Examiners as soon as practical;
2. be available for interview by the Board and furnish complete details of the casualty;
3. make a written report to the Board of Examiners as soon as practical, but no later than 30 days following the incident.

B. Any pilot who neglects or refuses to make a written report to the Board as required by these Rules, shall be reported to the governor for possible disciplinary action.

C. Any pilot requested or summoned to testify before the board of examiners shall appear in accordance with said request or summons and answer any questions related to or in any way connected with the pilot's service. The pilot has right to legal counsel at this meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004).

§6709. Removal from Duty

A. When any Examiner has reason to believe that the conduct or actions of a pilot is creating a dangerous or unsafe condition that may jeopardize the interests, safety, health or welfare of fellow pilots, vessels, cargo, property or individuals, the Examiner may immediately relieve that pilot from pilotage duty, without the necessity of formal notice and hearing, in order to protect the interests of the State of Louisiana. However, at the earliest possible time, the Board of Examiners must conduct an investigation of the pilot's conduct, as per these Rules, and conduct any necessary hearings in order to protect the due process and equal protection requirements afforded the pilot by the Louisiana and United States constitutions.

B. When any examiner has reason to believe that a pilot is or may be under the influence of alcohol, drugs or any other stimulant or depressant that may effect the pilot's ability to perform his/her duties, the examiner may immediately relieve that pilot from pilotage duty, without the necessity of formal notice and hearing, in order to protect the interests of the State of Louisiana.

However, at the earliest possible time, the Board of Examiners must conduct an investigation of the pilot's conduct, as per these Rules, and conduct any necessary hearings in order to protect the due process and equal protection requirements afforded the Pilot by the Louisiana and United States Constitutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004).

§6711. Investigations and Enforcement

A. All complaints reported to the Board shall be in writing and will be considered for investigation. A complaint, under the provisions hereinafter, is defined as:

1. any complaint involving a NOBRA Pilot.

B. The Board shall investigate or appoint an investigating officer to conduct a preliminary investigation of the complaint and report their findings to the Board.

C. Following the preliminary investigation, the Board shall determine whether the complaint is sufficient to justify further proceedings or may dismiss the complaint.

D. If after the preliminary investigation, the Board is of the opinion that the complaint is sufficient to justify a full investigation, the Board shall, if so required by law, notify the Office of the Governor and request authority from the governor to conduct a full investigation and/or administrative hearing regarding the complaint. Following receipt of authority from the governor, if so required by law, the Board shall authorize its investigating officer to conduct a full investigation of the complaint.

E. Following the full investigation, the investigating officer shall make a report to the Board, who, in its exclusive discretion, shall determine whether the complaint is sufficient to justify further proceedings or may dismiss the complaint.

F. Following the full investigation, if the Board is of the opinion that an administrative hearing is required, the Board shall give notice to the pilot, by registered mail or personal service, of the complaint or allegations made against him/her and offer the pilot an opportunity to show compliance with the laws or regulations allegedly violated. Said notice shall be issued pursuant to R.S. 49:955(B) and shall include:

1. a statement of the time, place, and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is being held;
3. a reference to the particular sections of the statutes and rules involved;
4. a short and plain statement of the matters asserted.

G. The Board may make informal disposition of any investigation or adjudication/hearing by means of stipulation, agreed settlement, consent order or default. If required by law, approval of such informal disposition must be sought from the Office of the Governor before the informal disposition may be deemed final.

H. Any pilot may be represented in any adjudication/hearing before the Board by an attorney at law duly admitted to practice in the State of Louisiana. Following receipt of proper notice of such representation, all further notices, subpoenas or other processes related to the proceedings shall be served on the pilot through his/her designated counsel of record.

I. Any pre-hearing motion shall be referred for decision to the Board, who in its discretion, may rule on the motion prior to the hearing date or may defer the matter until the hearing date.

J. All investigations and hearings undertaken as authorized herein above, shall be conducted pursuant to the Administrative Procedure Act, R.S. 49:950 et seq. If any specific provision of this section in any way conflicts with the more general rule of the Administrative Procedure Act, the more specific rule of this section shall govern.

K. Any pre-hearing motion shall be considered by the entire board.

L. Upon request of any party and upon compliance with the requirements of this Section, any board member shall sign and issue subpoenas in the name of the Board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

M. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the Board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the Board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examination, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the Board with reference to the value of time employed and the degree of learning or skill required.

N. Unless otherwise requested by the respondent/pilot, adjudication hearings, shall be conducted in open session, unless the respondent/pilot expressly requests that the matter be conducted in executive session, all as per law.

O. At the hearing, opportunity shall be afforded to all parties to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the administrative notice.

P. Unless stipulation is made between the parties, and approved by the Board, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the Board to prepare a written transcript of such proceedings.

Witness fees (expert or otherwise) and related hearing costs caused by the respondent/pilot shall be his/her responsibility; in no way whatsoever shall the Board be liable for nor responsible for costs or fees incurred by the respondent/pilot.

Q. During evidentiary hearing, the Board shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in or out of executive session, all as per law. At any such hearing, the Board may be assisted by legal counsel, who is independent of the prosecutor and who has not participated in the investigation or prosecution of the case.

R. The record in a case of adjudication shall include, but is not limited to:

1. the administrative notice, notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery, and all pleadings, motions, and intermediate rulings;
2. evidence received or considered at the hearing;
3. a statement of matters officially noticed except those so obvious that statement of them would serve no useful purpose;
4. offers of proof, objections, and rulings thereon;
5. proposed findings and exceptions, if any;
6. the decision, opinion, report or other disposition of the case made by the Board;
7. findings of fact;
8. conclusions of law.

S.1. In an adjudication hearing, the Board may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The Board may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written or recorded form.

2. All evidence, including records and documents in the possession of the Board which the parties desire the Board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

3. Notice may be taken of judicially cognizable facts and generally recognized technical or scientific facts within the Board's knowledge. The Board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

4. Any member of the Board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

T.1. The final decision of the Board in an adjudication proceeding shall be in writing and shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the Board.

2. Upon issuance of a final decision, a copy thereof shall promptly be served upon all parties of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of administrative notices.

U.1. A decision by the Board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the Board pursuant to written motion filed with the Board within 10 days from service of the decision on respondent or on its own motion. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed herein above and shall set forth the grounds upon which such motion is based, as provided herein.

2. The Board may grant rehearing, reopening, or reconsideration if it is shown that:

- a. the decision is clearly contrary to the law and the evidence;
- b. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
- c. other issues not previously considered ought to be examined in order to properly dispose of the matter; or
- d. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

V. As per law, the Board shall have the specific authority to recommend imposition of a fine on any pilot, to recommend reprimand or removal from duty of any pilot, or to recommend to the governor that the commission of any pilot be suspended or revoked if a pilot is found in violation of any rule or regulation adopted by this board of examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2478 (November 2004).

§6713. Recusal

A. No member of the Board of Examiners shall participate in the investigation of or vote on any matter to which he/she is a party to or in which he/she has a conflict of interest. In such cases, he/she shall automatically be recused from participating in or voting on such matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2479 (November 2004).

Henry G. Shows
President

DECLARATION OF EMERGENCY Office of the Governor Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots Mandatory Rest Period (LAC 46:LXX.6653)

The Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), adopts the following rule on an emergency basis. The Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, and shall become effective December 14, 2004, and shall remain in effect for the maximum period allowed under the Act, or until adoption of a permanent Rule, whichever occurs first. In order to provide for the continued safe and efficient pilotage of vessels along the Mississippi River, as well as to prevent any imminent peril to public health, safety and welfare, the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots finds that it is necessary that all pilots perform their duties while adequately and completely rested. To that end, the Board of Examiners finds an immediate need to provide Rules and Regulations regarding a mandatory rest period for New Orleans and Baton Rouge Steamship Pilots.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXX. River Pilots Subpart 7. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots Chapter 66. Standards of Conduct

§6653. Mandatory Rest Period

A. All New Orleans-Baton Rouge Steamship Pilots shall have a minimum six hour rest period between turns.

B. For the purpose of this rule, the "rest period" begins at the termination of the allotted travel time at the completion of one turn and ends at the time of dispatching for the next turn.

C. For the purpose of this rule, a "turn" is the time period from dispatch to the termination of the allotted travel time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 31:

Henry G. Shows
President

Chapter 62. Drug and Alcohol Policy

§6201. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by NOBRA Pilots, the Board of Examiners/ Board of Review will maintain and enforce a strict policy of zero tolerance for the use of prohibited drugs and the misuse of alcohol. Prohibited drugs will not be used, possessed, nor distributed by any NOBRA Pilot, at any time, whether on duty or off duty.

B. To this end, all state commissioned NOBRA Pilots shall be subject to drug and alcohol testing as per U.S. DOT rules (49 CFR Part 40) and U.S. Coast Guard regulations (46 CFR Parts 4, 5 and 16). This testing is federally mandated and all rules for specimen collection, handling, testing, confirmation, reporting and medical review shall be adhered to at all times. Additionally, in order to maintain its policy of zero tolerance, the Board of Examiners/Board of Review hereby establishes a more stringent drug screening program, over and above the federal rules. All NOBRA Pilots, apprentices and applicants shall be subject to this more stringent drug screening program, in addition to any testing required under the federal rules. As outlined below, this more stringent drug screening program shall consist of screening in the following situations: pre-qualification, random, post accident, reasonable suspicion, return to duty and follow-up.

C. Any violation of this drug and alcohol policy shall be reported to the U.S. Coast Guard and shall subject the pilot to disciplinary action by the Board of Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1794 (August 2002).

§6203. Definitions

A. As used in this chapter:

Administrative Procedure Act (APA) • the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Alcoholic Beverage • any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol; any substance that may otherwise impair or affect the ability of a pilot to function in any way whatsoever.

Applicant • any person who completes the written application supplied by the Board of Examiners to become a NOBRA Pilot.

Apprentice • any person duly elected by the members of the NOBRA Association, but not yet commissioned, to serve in an orientation program, as directed by the Board of Examiners.

Board of Examiners • the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots, as established by R.S. 34:1041, et seq.

Board of Review • the Board of Review for the New Orleans and Baton Rouge Steamship Pilots, as established by R.S. 34:1049, et seq. (Repealed by Acts 2003, No. 902 §2, effective Jan. 1, 2005)

NOBRA Pilot or Pilot • a commissioned Mississippi River Pilot for the territory established in R.S. 34:1041, et seq.

Prescription Medication • any medication distributed by or with the authorization of a licensed physician, as defined in R.S. 40:961(33).

Prohibited Drug(s) • any and all controlled dangerous substances as defined in R.S. 40:961(7); any substances which are illegal under Federal, State, or local laws; this term shall include, but is not limited to:

- a. marijuana;
- b. heroin;
- c. hashish;
- d. cocaine;
- e. hallucinogens; and

f. depressants and/or stimulants not prescribed for current personal treatment by a licensed physician, as defined by R.S. 40:961(33).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots LR 28:1794 (August 2002).

§6205. Circumstances for Drug Testing

A. Regular and random, unannounced urine and hair drug screening shall be done at a frequency designed to assure the Board of Examiners/Board of Review, the State, shipping clients and the general public that the NOBRA Pilots are dedicated and aggressive in their enforcement of their zero tolerance policy towards prohibited drugs.

B. Additionally, the Board of Examiners/Board of Review reserves the right to require a pilot to submit to a drug screen whenever the Board of Examiners has reasonable suspicion to suspect a pilot is under the influence of a prohibited drug. Such a drug screen may be done by means of urine, hair, blood or any other type of screen chosen by the Board of Examiners/Board of Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1795 (August 2002).

§6207. Urine Testing

A. Any pilot involved in an accident or incident while performing his duties as a pilot shall be subject to a urine drug screen test, as required by these rules, U.S. DOT rules and U.S. Coast Guard regulations. This urine drug screen shall consist of an expanded screening panel designed to detect various illegal drugs, and commonly abused prescription drugs, which are not detected by standard U.S.

DOT screens. The expanded panel shall be determined from time to time at the discretion of the Board of Examiners/Board of Review. The results of all drug screens taken pursuant to this paragraph shall become part of the pilot's permanent personnel file.

B. In addition to these required drug screens, all NOBRA Pilots shall be subject to random urine screening by means of the expanded screening panel. This random urine screen will be at a rate of a minimum of six pilots per month. The Board of Examiners/Board of Review shall design a protocol for the random selection of the Pilots to be tested. Failure to timely appear for testing or refusing to provide proper or adequate samples will subject the pilot to disciplinary action by the Board of Examiners/Board of Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1795 (August 2002).

§6209. Hair Testing

A. Every NOBRA Pilot shall submit to a hair drug screen on a bi-annual basis. The timing of the bi-annual hair drug screens for each pilot shall be randomly selected as per a protocol designed by the Board of Examiners/Board of Review. Each pilot shall appear for his/her hair drug screen when notified to do so by the Board of Examiners/Board of Review. This hair screen is designed to detect various illegal drugs, and commonly abused prescription drugs, which may have been used by a pilot. Failure to timely appear for testing or refusing to provide proper or adequate samples will subject the pilot to disciplinary action by the Board of Examiners/Board of Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1795 (August 2002).

§6211. Split Sample/Safety Net Testing

- A. Whenever there is a positive test result, of any type, returned as to any pilot, that pilot shall be entitled to the following split sample/referee sample testing or safety net testing as is possible through the Board's designated testing facilities.
- B. The Board shall designate, from time to time, an authorized testing facility or laboratory that is responsive and responsible to the needs of the Board. Such designation may be unilaterally and exclusively changed by the Board at any time for any reason. The Board, after such change, shall reasonably notify all applicants, apprentices and pilots.
- C. The designated testing facility or laboratory shall ensure and be responsible that all specimen collection and related procedures are properly followed and maintained.
- D. The designated testing facility or laboratory shall be responsible for the safeguarding of all specimen collection facilities, equipment and samples collected.
- E. The taking of samples shall be taken, witnessed and handled in accordance with the recognized community standard.
- F. The designated testing facility or laboratory shall assist in ensuring that the sample will be correctly and properly transferred for testing purposes.
- G. The following procedure is hereby established for the testing of a split or referee urine, blood or hair sample.
 - 1. Upon the timely request of a pilot, a urine or blood specimen may be split or divided into approximately equal parts; one being processed for initial laboratory testing for detection of the presence of prohibited drugs or substances therein; the remaining or second part shall be identified as the split or referee sample to be processed for future testing under the following procedures. Failure to timely request the taking of a split or referee sample shall be deemed, classified and designated as a waiver of any and all rights to have a split or referee sample.
 - 2. As to hair, upon notice that a test result has been returned or reported as positive, the pilot shall have 24 hours to notify the testing facility that the pilot requests that the referee sample be properly taken and tested. Failure of the pilot to timely notify the testing facility that the referee sample is to be tested shall be deemed classified and designated as a waiver and forfeiture of having the referee sample tested.
 - 3. The split or referee sample may, at the election of the pilot, be tested by an alternate testing facility or laboratory, as pre-approved by the Board.
- H. All test reports shall be submitted to this board in writing.
- I. Reports to this board shall present documentary or demonstrative evidence acceptable in the scientific community and be admissible in court in support of a professional opinion as to the positive findings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1795 (August 2002).

§6213. Effect of Positive Drug Screen/Disciplinary Action

- A. Any NOBRA Pilot with a prohibited drug detected in his system will have an opportunity to explain any medical condition which may have had an effect on the test result. However, passive inhalation or atmospheric contamination are not acceptable explanations for confirmed positive drug tests.
- B. Any positive drug screen shall be reported to the U.S. Coast Guard and may place the pilot's license in jeopardy. Any NOBRA Pilot testing positive for a prohibited drug, or residual thereof, shall be removed from duty, pursuant to §6111.L of the commission's rules, pending a hearing pursuant to R.S. 34:1042. Any NOBRA Pilot who presents a positive drug screen shall be

subject to disciplinary action by the Board of Examiners/Board of Review, including the recommendation of revocation or suspension of his commission by the Governor, reprimand or treatment/rehabilitation. The proper disciplinary action shall be determined by the Board of Examiners/Board of Review on a case by case basis. Any pilot who is required to undergo evaluation and/or treatment for drug use shall do so at his/her own personal expense. In addition, the evaluation and treatment facility must be pre-approved by the Board of Examiners/Board of Review.

C. Refusing a drug screen, or any attempts at alteration or substitution of samples is considered a violation of the federal rules, as well as this policy. Any NOBRA Pilot who refuses to submit to a drug screen, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results, shall be removed from duty as a pilot pursuant to §6111.L of the commission's rules, pending a hearing pursuant to R.S. 34:1042. Furthermore, avoiding the directions of the Board of Examiners/Board of Review after an accident/incident which mandatorily requires a drug/alcohol screen will be considered a refusal to test and will subject the offending pilot to disciplinary action by the Board of Examiners/Board of Review.

D. In addition, if the master of a vessel refuses a pilot's services due to the alleged impairment of the pilot, the pilot shall immediately contact a member of the Board of Examiners/Board of Review to receive instructions regarding testing. The pilot shall then immediately proceed to a testing facility selected and pre designated by the Board of = Examiners/Board of Review. Failure to proceed to the testing facility in the time allowed by the Board of Examiners/Board of Review, which shall be determined at the time, but shall not exceed three hours, shall be considered a refusal to test and will subject the offending pilot to disciplinary action by the Board of Examiners/Board of Review. AUTHORITY NOTE: Promulgated in accordance with R.S.

34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1796 (August 2002).

§6215. Prescription Drug Use

A. Every NOBRA Pilot has a duty to ascertain whether a prescription medication, legally prescribed, will impair his/her ability to perform his/her piloting duties. If, after consultation with his/her treating physician, a pilot reasonably believes or has been informed or advised that a prescription medication may cause impairment, the pilot shall inform the Board of Examiners/Board of Review and remove himself/herself from duty until such time that his treating physician, in consultation with a physician specializing in occupational medicine, certifies that he/she may return to duty or changes the medication to one which will not impair the pilot.

B. If a drug screen indicates that a pilot has in his/her system a prescription drug which may impair his/her ability to perform their piloting duties, and the pilot has not voluntarily taken leave, the pilot shall be removed from duty, without pay, pursuant to §6111.L of the commission's rules, until such time that the Board of Examiners/Board of Review, in consultation with a physician specializing in occupational medicine, or any other medical professional, can determine that the pilot is fit to return to duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1796 (August 2002).

§6217. Alcohol Use

A. No pilot shall consume any alcohol, of any nature whatsoever, within six hours before, or during, the performance of their piloting duties. Alcohol testing shall be conducted following any accident involving a pilot in the performance of their duties. The

Board of Examiners and/or the Board of Directors may also require a pilot to submit to alcohol testing upon reasonable suspicion that a pilot is performing his duties while under the influence of alcohol. for six hours prior to coming on duty. Duty, in this case, shall be defined as the time the pilot is ordered on board the vessel. Testing positive for alcohol while on duty is directly reportable to the Board of Examiners/Board of Review and is not subject to review by a Medical Review Officer, as there is never a medical reason to use any form of alcohol internally while on duty. Any pilot who requires medicines, such as cough and cold medications, which may have a small amount of alcohol, should ask their physician or pharmacist to recommend a non-alcoholic medication. While the U.S. Coast Guard prohibits alcohol use above the level of 0.04 percent BAC, the Board of Examiners reserves the right to take disciplinary action on lower alcohol levels, depending on the facts and circumstances of each particular case.

C. Any positive alcohol test shall be reported to the U.S. Coast Guard and may place the pilot's federal license in jeopardy. Any NOBRA Pilot testing positive for alcohol shall be removed from duty as a pilot, pursuant to §6111.L of the commission's rules, pending a hearing pursuant to R.S.

34:1042. Any NOBRA Pilot with a positive alcohol test shall be subject to disciplinary action by the Board of Examiners, including recommendation of revocation or suspension of their commission by the governor, reprimand or treatment/rehabilitation. The proper disciplinary action shall be determined by the Board of Examiners on a case by case basis. Any pilot who is required to undergo evaluation and/or treatment for alcohol abuse shall do so at his own personal expense. In addition, the evaluation and treatment facility must be approved by the Board of Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1796 (August 2002).

§6219. Confidentiality

A. The results of all positive drug screens and alcohol tests shall be confidential and shall not be disclosed to any entity or person other than:

1. the Governor of Louisiana and the Board of Directors of the New Orleans/Baton Rouge Steamship Pilots Association; and
2. the U.S. Coast Guard; and
3. in the event that the Board of Examiners/Board of Review determines that a hearing is required pursuant to R.S. 34:1042, there shall be no requirement of confidentiality in conducting the hearing.

B. In addition, the records of any pilot maintained by the Board of Directors of NOBRA shall not be confidential and shall be available to the Board of Examiners/Board of Review in connection with any investigation regarding the use of prohibited drugs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1797 (August 2002).

§6221. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid and unenforceable, for any reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S.

34:1041.
HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1797 (August 2002).

§6223. Applicable Procedures

A. Any investigation, action or disciplinary proceeding undertaken in conjunction with this policy shall be conducted in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. At such time as the Board of Examiners promulgates its own investigatory and procedural rules, pursuant to R.S. 49:953, those rules shall supersede those of the Louisiana Administrative Procedure Act and become applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1797 (August 2002).

RULE

Office of the Governor Board of Examiners for New Orleans and Baton Rouge Steamship Pilots Enhanced Drug and Alcohol Policy (LAC 46:LXX.Chapter 63)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and/or Board of Review (hereinafter "board") has adopted Rules regarding enhancement of current drug and alcohol policies, together with other violations and penalties associated therewith.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXX. River Pilots

Subpart 7. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots Chapter 63. Enhanced Drug and Alcohol Policy

§6301. Purpose and Policy

A. Due to the safety sensitive nature of the duties performed by NOBRA Pilots, the Board will maintain and enforce a policy of no tolerance for the violation of its policies, Rules and Regulations as to those River Pilots who pursuant to R.S. 34:1041 et seq. have the duty to pilot sea-going vessels up and down the Mississippi River generally from mile 88 AHP to mile 304 AHP (Latitude 31). These Rules and Regulations are enacted to accomplish those purposes required by the legislature and to protect the public by ensuring available, safe and competent pilotage of vessels on the waterways under the jurisdiction of this board.

B. Further, the Louisiana Legislature formed this board for the additional purpose of establishing rules, regulations and requirements for all NOBRA Pilots to establish standards for recommendation by the Board to the Governor of the State of Louisiana for such disciplinary matters who may have violated same.

C. The purposes of these Rules and Regulations are as follows:

1. to enhance general standards of conduct of pilots herein; and
2. for the Board to recommend to the Office of the Governor such sanctions as are permitted herein; and
3. to enhance certain minimum standards of conduct relative to alcohol and substance abuse; and
4. to enhance a set of Rules and Regulations for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of this board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:38 (January 2004).

§6303. Application

A. The Board hereby adopts the following enhanced Rules and Regulations relating to a drug and alcohol abuse policy applicable to all state licensed NOBRA Pilots pursuant to the provisions of R.S. 34:1041 et seq., together with all apprentices and candidates. These Rules and Regulations are not intended to replace those Rules and Regulations in existence. Current Rules and Regulations are not superceded nor replaced. What follows is intended only to enhance and strengthen the existing Rules and Regulations. Any conflict is to be construed and resolved in the stricter sense and implementation. With that end, all current Rules and Regulations are adopted herein in extenso.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:38 (January 2004).

§6305. Statement of Findings

A. This board has always had a strong commitment and policy to establish programs promoting the highest standards of pilot health, safety and welfare. Consistent with the spirit and intent of this on-going commitment, the Board herewith re-establishes and re-enforces these policies. The Board's stated goals will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug use and abuse. The Board's stated goals will continue to be one of establishing and maintaining a work environment that is free from any incident or occasion that may result in any loss, adverse effect or harm to the state's or general public's safety, health and welfare.

B. While the Board has no intention of intruding into the private lives of NOBRA Pilots, apprentices or candidates, the Board does expect that these persons report for work in a fit condition to perform their respective duties. The Board recognizes that off-the-job incidents, as well as on-the-job incidents, and involvement with alcohol and drugs can have an impact on the work place and on a River Pilot's ability to accomplish the Board's goals herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:38 (January 2004).

§6307. Authority

A. As mandated by R.S. 34:1041, these Rules and Regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements of oversight for NOBRA Pilots, apprentices and candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

§6309. Definitions

A. As used in this Chapter, the following terms as used in these Rules and Regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act (APA) • the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Alcoholic Beverage/Alcohol • any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol; any substance that may otherwise impair or affect the ability of a pilot to function in any way whatsoever.

Applicant/Candidate • any person who seeks or is seeking a pilot commission issued herein; also may be used interchangeably with "pilot."

Application • the written application supplied by the Board of Examiners to an applicant who desires to become a River Pilot as per law and/or for the New Orleans-Baton Rouge Pilot Association.

Apprentice • any person enrolled and/or participating in the orientation program as established by this board; also may be used interchangeably with "pilot."

Association • New Orleans-Baton Rouge Steamship Pilot Association.

Board of Examiners or Board of Review • the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and/or Board of Review, established in R.S. 34:1041 et seq. (R.S. 34:1049, Board of Review, Repealed by Acts 2004 No. 902 § 2. effective Jan. 1, 2005)

Candidate • any person enrolled and/or participating in the orientation program as established by this board; also may be used interchangeably with "pilot."

Drug • any and all controlled dangerous substances as defined in R.S. 40:961(7). Drugs which are illegal under federal, state, or local laws include but are not limited to, marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited or licensed physician.

Gender • the use of "his" or "her" or any reference to masculinity or femininity are to be used interchangeably.

NOBRA Pilot or Pilot • a Mississippi River Pilot under the jurisdiction of this Commission, as designated in R.S.

34:1041; any person as recommended by the Board to the Office of the Governor and commissioned thereafter as per law; hereinafter "pilot."

Prescription Medication • any medication distributed by or with the authorization of a licensed physician as defined in R.S. 40:961 (30).

VTC • Vessel Traffic Center, or any other similarly related United States Coast Guard or governmental facility, institution, or program whatsoever.

Waterways • the Mississippi River generally between mile 88 AHP and Mile 304 AHP (Latitude 31).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

§6311. Severability

A. If any provision of these Rules and Regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these Rules and Regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

§6313. Effective Date

A. These Rules and Regulations shall be in full force and effective ninety days after final publication in the *Louisiana Register* or as per law, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

§6315. Violations of the Policy

- f. when subject to the random drug or alcohol testing policy as created by this board;
- g. when the pilot is reasonably suspected of using drugs in violation of this policy;
- h. when the pilot is determined to be directly involved in a marine casualty or accident;
- i. when there exists reasonable suspicion that a pilot is performing duties while under the influence of alcohol or drugs.

C. The Board may designate a testing agency to perform any scientific test(s) necessary to detect the presence of alcohol and/or drugs or their metabolites in a pilot's system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:40 (January 2004).

§6325. Test Results

A. Any pilot, whose test is confirmed as positive, shall have the right of reasonable immediate access to drug tests records. Any and all pilot requests shall be in writing and delivered to the Board without delay.

B. The results of the drug testing conducted pursuant to this policy and all information, interviews, reports, statements and memoranda relating to the drug testing shall, as per law, be confidential and disclosed only to this board and the pilot tested, except that:

1. the Board may report the results to the Office of the Governor; and
2. in the event that the Board determines that a hearing is required pursuant to R.S. 34:1041 et seq., there shall be no requirement of confidentiality in connection with such hearing or release of such medical records or test results, all as per law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:41 (January 2004).

Henry G. Shows
Chairman